

**Government of the District of Columbia**  
**ZONING COMMISSION**



**ZONING COMMISSION ORDER NO. 749**  
**Case No. 93-9C**  
**(PUD & Map @ GWU/WETA - Motion for Reconsideration)**  
**January 10, 1994**

On June 16, 1993, the District of Columbia Office of Zoning received an application from the George Washington University (GWU) and the Greater Washington Telecommunications Association (WETA). The application requested the Zoning Commission for the District of Columbia to approve consolidated review of a planned unit development (PUD) and amendment to the Zoning Map of the District of Columbia from R-5-D to C-3-C for Lot 880 in Square 101.

The PUD site is located at the northeast corner of the intersection of 21st and H Streets, N.W. within the campus boundaries of GWU. It consists of approximately 26,429 square feet of land area, and is presently used as a surface parking lot.

The applicants seek approval of the PUD and change of zoning to facilitate the construction of an eight-story mixed-use building on the site to be used jointly by GWU and WETA as an educational and communications center.

The proposal would have a gross floor area of 139,808 square feet, a lot occupancy of 68.15 percent, a floor area ratio (FAR) of 5.29, a height of 116 feet and seven inches, and on-site parking to accommodate 110 vehicles.

On October 25 and 28, 1993, the Zoning Commission held and concluded a public hearing on the proposal, pursuant to the provisions of 11 DCMR 3022. This section of the Zoning Regulations, in part, includes information that should be addressed by persons who request to be admitted as a party of record.

11 DCMR 3022.4 of the Zoning Regulations reads as follows:

"The Commission shall determine who will be recognized as a party. In so determining, the Commission shall consider whether the provisions of subsection 3022.3 have been complied with and whether the specific information presented qualifies the person as a party."

As a preliminary matter at the hearing session on October 25, 1993, the Zoning Commission considered requests for party status from several persons. 11 DCMR 3022.3(f) solicits written information that addresses the following:

1. The property the person owns, occupies, or has which will be affected by action upon the application, and the relationship the person has to that property (such as owner, tenant, trustee, mortgagee, resident, or other);
2. The distance between the person's property and the property for which action of the Commission is requested;
3. The environmental, economic, and social impacts upon the person and the person's property which are likely to occur if the action requested of the Commission is approved; and
4. Any other matters that would demonstrate how the person would be affected or aggrieved by action upon the application.

By letter dated October 12, 1993 (Exhibit No. 28), Ms. Marija Hughes requested to be admitted as a party. Ms. Hughes' letter addresses 11 DCMR 3022.3 (f) as follows:

1. I rent the property at the address listed.
2. The property is four blocks from the property for the proposed GWU/WETA project. However, the property is also diagonally across the street from the boundary of the GWU Campus Plan.
3. If the application is approved, the property I reside in will be seriously affected by the electromagnetic emissions from the transmissions of the antennas.
4. If the project is approved, there will be additional interference with the radio and television receptions at my residence.

After discussion of Ms. Hughes' request for party status, the Zoning Commission denied her request.

The Commission noted that in the traditional sense of land-use and zoning issues; e.g., traffic, aesthetics, noise, etc., Ms. Hughes resides a significant distance from the PUD site and, therefore, would not likely be directly affected by the impact of the PUD project.

The Commission acknowledged that the affect of electromagnetic emissions from transmission of the antennae raises a question about what is an appropriate distance to avoid adverse impact from the source of eletromagnetic emissions.

The Commission noted that Advisory Neighborhood Commission (ANC) 2A, an automatic party to which the Zoning Commission must give

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"great weight" consideration, raised the issue of electromagnetic emissions in its report. The Commission believes that this matter can be addressed through the ANC.

Subsequent to the conclusion of the public hearing and by letter dated November 16, 1993 (Exhibit No. 85), Ms. Hughes filed a motion for reconsideration of the decision of the Zoning Commission to deny her party status.

The motion for reconsideration, in part, further elaborated on some of the issues that were previously addressed by the Commission, and also claimed that the Zoning Commission admitted various persons as parties in a previous case; that is, the NBC case, but applied different and arbitrary criteria for determining parties in the GWU/WETA case.

11 DCMR 3029 does not provide for reconsideration of denials of party status of the Commission. However, notwithstanding this procedural deficiency, the Zoning Commission considered the merits of Ms. Hughes' motion at its regular monthly meeting on December 13, 1993.

At that meeting, the Zoning Commission also considered a memorandum dated December 9, 1993 from the Director of the Office of Zoning recommending that the Commission deny Ms. Hughes' motion for reconsideration. The memorandum stated the following:

The Commission properly noted that Ms. Hughes lives some four blocks from the site, that her interests were no different than any other person in the general area, and that ANC-2A, a party in the case, could address the issues of concern to Ms. Hughes.

Ms. Hughes failed to identify a specific interest that would be affected by the Commission's action on this application, and was given ample time to provide her testimony to the Commission.

Ms. Hughes' concerns regarding antennas were addressed by the ANC, and the Commission has directed the applicants to respond to Ms. Hughes comments in their post-hearing submission.

The Commission notes that the NBC case proceeding, about which Ms. Hughes refers, was a matter before the Board of Zoning Adjustment (BZA) and not a matter before the Zoning Commission. The Commission further notes that the BZA Supplemental Rules of Practice and Procedure are not as stringent as the Zoning Commission Rules of Practice and Procedure regarding the admission of parties.

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The Commission concurs with the recommendation of the Office of Zoning and believes that upon balancing all of the issues relative to this matter, its decision is reasonable and appropriate, and does not deprive Ms. Hughes an opportunity to have her concerns adequately addressed.

The Commission did permit Ms. Hughes an opportunity to present direct testimony into the record of this proceeding as a person and not party of record.

The Commission believes that, because its expertise is in land use controls, there are other agencies, such as the Federal Communications Commission, that could address the concerns about electromagnetic emissions.


The Commission further believes that Ms. Hughes' concerns about electromagnetic emissions can also be advanced through her Advisory Neighborhood Commission.

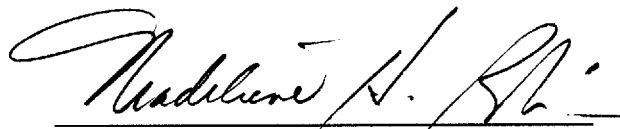
In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby orders that the motion for reconsideration to deny party status to Ms. Marija Hughes be DENIED.

Vote of the Zoning Commission taken at the public meeting on December 13, 1993: 4-0 (William L. Ensign, Jerrily R. Kress and Maybelle Taylor Bennett, to deny and John G. Parsons, to deny by absentee vote - William B. Johnson, not present not voting).

This order was adopted by the Zoning Commission at its public meeting on January 10, 1994 by a vote of 5-0 (Jerrily R. Kress, William L. Ensign, William B. Johnson, John G. Parsons, and Maybelle Taylor Bennett, to adopt as amended).

In accordance with the provisions of 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register; that is, on JAN 20 1994.

  
MAYBELLE TAYLOR BENNETT  
Chairperson  
Zoning Commission

  
MADELIENE H. ROBINSON  
Director  
Office of Zoning